



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord for an early end of tenancy and an Order of Possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Landlord and Tenants were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy started on November 1, 2011 on a fixed term to June 30, 2012. The Landlord states that the Tenants have left articles near the woodstove, baseboard heaters, electrical box and stove top that the Landlord believes creates a fire hazard. The Landlord states that the Tenants have been burning garbage in the wood stove causing possible damage to the stove and creating a risk of fire. The Landlord states that the Tenants have left fuel cans beside a fridge on the porch.

The Landlord states that the Tenants have removed bricks and blocks from under the porch and that these items support the wraparound porch. The Landlord states that as a result, the porch is at risk of falling. The Landlord states that the bricks also support the support beams under the house but that none of the support beams have been removed. The Landlord states that the Tenants have caused a pipe to be damaged in the pump house and failed to maintain the septic tank. The Landlord states that as a

result the floor of the pump house is waterlogged and requires replacement. The Landlord states that the Tenants left several bags of garbage on the back of a truck and that the Landlord had to haul them away on May 19, 2012. The Landlord states that the Tenants risked attracting bears or other wildlife and that this creates danger for the neighbouring farms that keep animals. The Landlord states that his home and belongings are at risk and that the Tenants are refusing him entry to make repairs. The Landlord provided photos of the unit and yard.

The Landlord's Witness, a farm neighbour, states that bears have been sighted in the area and that the Witness saw the bags of garbage on the truck and that bricks had been removed from under the porch.

The Tenants state that they have been maintaining the pump house regularly following the Landlord's instructions and that the pipe was not damaged prior to the Landlord leaving his gear, including a saddle in the pump house. The Tenant states that the pipe appeared to be punctured and believe it may have been caused by the Landlord's gear. The Tenants state that they have never seen any blocks or beams under the porch and that these articles were not present when they moved into the unit. The Tenants state that their house was messy on the day the Landlord entered the unit and took pictures and that it has since been cleaned. The Tenants state that the articles by the wood stove were there to be given away and that no baseboard heaters have ever been used by the Tenant due to the cost of the heat. The Tenants states that the woodstove has seldom been used as well and was not being used during the time the clothes were nearby. The Tenants state that they have never burned garbage in the wood stove and have not used the stove since the beginning of spring. The Tenants do not deny that they piled garbage bags in the back of the truck that was left by the Landlord to take the garbage to the dump but that the truck was not working. The Tenants state that they are aware of bears being present and are concerned about safety like the Landlord. The Tenants state that the fuel cans referred to by the Landlord are empty.

The Landlord states that it would be unreasonable to wait for a one month notice to take effect because the Tenants are deliberately damaging the property, because he needs to make major repairs and the Tenant will not communicate with him and refuse him access to the unit to make repairs.

The Tenants state that the Landlord is exaggerating his claim and only wants the Tenants out before the end of June 2012 and that this is not fair as they have four children. The Tenants state that they are looking for another unit. The Tenants state that they are not talking to the Landlord as he makes himself obnoxious by always being around the yard and coming into the house.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property, and
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 *[landlord's notice: cause]* to take effect.

After careful consideration of the evidence, I find the Tenants' evidence in relation to the pump house, the bricks, the gas cans and the use of the stove and baseboard heaters

to be persuasive. I find that the Landlord has not substantiated on a balance of probabilities that the Tenants caused any risk or jeopardy in relation to these items. Although the Tenants may have created some risk by leaving the garbage in the truck, this risk was removed prior to the application, and I find that the Landlord has not established that it would be unreasonable or unfair to the Landlord to wait to end the tenancy under a one month notice, or by waiting for the tenancy to end on June 31, 2012 according to the fixed term. Accordingly, I dismiss the Landlord's application and the tenancy continues.

Conclusion

The Landlord's application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 07, 2012.

Residential Tenancy Branch